

powder while claims of '087 are directed to a process for producing a barium sulfate based powder. The difference is the substrate powder of instant claims and the specific metallic ions of claims of '087. The specific metallic ions are described in the instant specification and include lithium, sodium, potassium and magnesium ions in paragraph [0093]. Therefore, the Examiner concludes, the instant claims are obvious over the claims of '087.

Despite the later effective priority date of the cited copending reference, Applicants submit herewith a Terminal Disclaimer with respect to the copending '087 application, thus removing the basis for the rejection.

***Claim Rejections - Obviousness-Type Double Patenting – (Application No. 11/721,472)***

Claims 1-3, 7, 12 and 15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4-5, 10 and 13 of copending Application No. 11/721,472 (“ ‘472”). Although the conflicting claims are not identical, the Examiner contends that they are not patentably distinct from each other because the difference is that claims of '472 include a hydrophobizing agent and a cationic surfactant. The examiner concludes that it would have been obvious to use the barium sulfate coated particles in a cosmetic as disclosed in instant claims and add hydrophobizing agents and surfactants depending on the desired cosmetic usage. For example, surfactants and hydrophobizing agents would be added for lotions and creams.

Despite the later effective priority date of the cited copending reference, Applicants submit herewith a Terminal Disclaimer with respect to the copending '472 application, thus removing the basis for the rejection.